Appl. No. 10/061,944
Amdt. dated February 21, 2006
Reply to Office Action of August 23, 2005

## REMARKS/ARGUMENTS

I. Status of the Claims

After entry of this amendment, claims 47-48, 54 and 63 are pending, claims 47 and 48 having been amended, claims 1-46, 49-53 and 55-59 having been previously canceled, claims 49 and 54 having been canceled, and claims 60-62 having been withdrawn as being drawn to a non-elected invention. Claims 60-62 shall be rejoined should claim 47 be found allowable.

II. Amendments to the Claims

Claim 47 is amended for clarity. Support for "obtaining a CMV genome from the CMV or the at least one CMV infected cell collected in step (a);" is provided in the specification at, e.g., page 4, lines 27 to 28. Support for "genotypically" is provided in the specification at, e.g., page 22, lines 3 to 9, wherein the examples of types of mutations, and methods to assess the mutations, in the CMV genome are genotypic.

Claim 48 is amended for clarity. Support for "the blood" is provided in the specification at, e.g., page 4, lines 23 to 27.

No new matter is added by these amendments.

Claims 49 and 55 are canceled.

II. Claim Rejections

A. Written Description

Claims 47-49, 54-55 and 63 are rejected as being indefinite. The Examiner alleges that the recital of "the genome" in claim 47 lacks antecedent basis in the claim. The Examiner also alleges that it is unclear how the intended detection of mutation is achieved. In particular, the Examiner alleges that it is unclear whether the recitation of "analysis": is genotypic or phenotypic; directed to a specific portion of the genome; further encompasses

additional method steps; or directed at a specific intended use. For the latter, the Examiner requests amendment of the claims to include the purpose of the intended use.

While not in agreement that the recital of "the CMV genome" requires antecedent basis, to simplify further prosecution Applicants have amended claim 47 for clarity to introduce a new step (b) that provides antecedent basis for the recital of "the CMV genome" in step (c).

Applicants have amended claim 47 to clarify how the intended detection of mutation is achieved. The "analysis" is genotypic and is directed to a segment of the CMV genome. Support is provided in the specification at, e.g., page 22, lines 3 to 9.

Regarding the Examiner's question as to what portion of the CMV genome the "analysis" is directed, the analysis is directed to any segment of the CMV genome that allows one to detect the presence and/or absence of a mutation. The claim neither requires nor excludes also analyzing other parts of the CMV genome, e.g., to detect additional mutations.

Regarding the Examiner's question as to whether "analysis" encompasses additional method steps, Applicants have introduced a method step (b) of obtaining the CMV genome, support for which is provided in the specification at, e.g., page 4, lines 27 to 28. Other method steps subsequent to the analyzing step (c) are neither required nor excluded.

Regarding the Examiner's question as to whether the "analysis" step is directed to a specific intended use, the claimed method is not limited to a specific intended use. Examples of possible uses of the claimed method are described in the specification at, e.g., page 22, lines 10 to 20, including assessing the emergence of drug resistant populations of patients, and detection of reversion of recombinant viruses. Therefore, no amendment of the claim to include the purpose of the intended use is required.

Based on the foregoing, Applicants respectfully request the rejection of claims 47-48, 55 and 63 as being indefinite be withdrawn.

B. Obviousness

Claims 47- 49 and 63 are rejected under 35 USC 103(a) as being obvious over Erice (*Clin. Microbiol. Rev.* 12:286-297, 1999) in view of Ghose (U.S. Patent No. 4,692,411) and Schall et al. (U.S. Provisional Application No. 60/228,974, filing date August 30, 2000, as evidenced by US Publication No. 2002/0127544). The Examiner stated that this rejection might be overcome by showing that the Schall et al. reference is disqualified under 35 USC 103(c) as prior art in a rejection under 35 USC 103(a). This rejection is traversed.

The Schall et al. reference is disqualified as prior art because the subject matter of the Schall et al. reference and the claimed invention were, at the time the claimed invention was made, commonly owned by ChemoCentryx, Inc. For the Schall et al. reference, the assignment of US Provisional Application No. 60/228,974 to ChemoCentryx, Inc. was executed January 23, 2001 and recorded in the United States Patent and Trademark Office (USPTO) at Reel 011579 and Frame 0967, and the assignment of US Application No. 09/944,163 (corresponding to US Publication No. 2002/0127544) to ChemoCentryx, Inc. was executed April 18, 19 and 29, 2002 and recorded in the USPTO at Reel 01295 and Frame 0794. For the instant application, the assignment to ChemoCentryx, Inc. was executed May 21, 2002 and June 6, 2002 and recorded in the USPTO July 2, 2002 at Reel 013053 and Frame 0180.

Claims 54-55 are rejected as being obvious under 35 USC 103(a) over Erice in view of Schall et al., as applied to claims 47 and 49, in further view of Ford-Hutchison et al. (*Prostaglandins* 28:13-27, 1984). This rejection is traversed for the same reason as above, namely, that the Schall et al. reference is disqualified as prior art because the subject matter of this reference and the claimed invention were, at the time the claimed invention was made, commonly owned by ChemoCentryx, Inc.

Accordingly, Applicants respectfully request that the rejection of claims 47-48, 54 and 63 as being obvious be withdrawn.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

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Attachments
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